

RESERVIST REEMPLOYMENT RIGHTS

BY JIM WILEY

If you are a mobilized Reservist who was employed before entering active duty, your right to return to your job is protected by federal law. On January 18, 2006, the Uniformed Services Employment and Reemployment Rights Act (USERRA), 38 U.S.C. §§ 4301-4334 was amended and improved protections for activated Reservists.

It is important to note that USERRA requires that service members provide advance written or oral notice to their employers for all military duty unless giving notice is impossible, unreasonable, or precluded by military necessity. This office recommends that an employee provide notice as early as is possible. Although oral notice is allowed, it is generally best to put such notice in writing and retain a copy for your records.

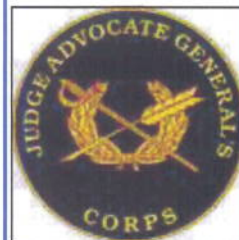
If the Reservist complies with the notice requirements, an employer must promptly reemploy the returning Reservist. "Promptly" usually means within days, not months, of his or her return. Generally the reemployment position should be the same one the person would have attained had he or she remained continuously employed during the period of military service.

Among its other protections, USERRA prohibits discrimination and reprisal against any person in federal employment (initial employment, reemployment, retention, promotion, or receiving any employment benefit) because of that person's military membership, application for membership, performance of, application for, or obligation for military service.

USERRA also provides significant protection for disabled veterans. The law requires employers to make reasonable efforts to accommodate the disability. Also, some service members convalescing from certain injuries received during service or training *may* have an extended time period (not to exceed two years) from the date of completion of service to return to their jobs or apply for reemployment.

You can seek enforcement of your USERRA rights through the Department of Labor Veterans' Employment and Training Service (VETS). The Department of Labor Website lists local VETS offices at <http://www.dol.gov/vets/aboutvets/contacts/main.htm>. These offices can provide assistance if you are experiencing problems with an employer or if you simply have questions. Additional information is also available at <http://www.osc.gov/userra.htm>.

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